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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

SEP 21 1998

DOCKETED BY

JIM IRVIN
Commissioner - Chairman

RENZ D. JENNINGS

Commissioner

CARL J. KUNASEK

Commissioner

IN THE MATTER OF THE COMPETITION IN
THE PROVISION OF ELECTRIC SERVICES
THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

TEP'S COMMENTS ON PROPOSED
RULE AMENDMENTS

On August 10, 1998, the Arizona Corporation Commission ("Commission") issued Decision No. 61071 regarding proposed rule amendments to A.A.C. R14-2-1601, *et. seq.* ("Proposed Amendments"). Tucson Electric Power Company ("TEP" or "Company") hereby submits the following comments on the Proposed Amendments.

A. General Comments

TEP has commented on previous drafts of the Proposed Rules prior to their adoption on an emergency basis. Such comments are already filed in this Docket and the Company, therefore, incorporates such comments by reference herein. The Proposed Rules contain unresolved operational and implementation issues (such as a lack of standardized service acquisition and ISA agreements and CC&N requirements), some of which the Company will address herein.

As a matter of general concern relating to the CC&N application process, TEP notes that, instead of incorporating necessary details and requirements into Proposed Rule R14-2-1603, the Commission has recently issued a CC&N application form for new ESPs. It appears that the Commission is attempting to promulgate additional rules through the form as opposed to incorporating the substantive requirements set forth in the application form into the Proposed Rules. TEP does not believe this is appropriate as many of the provisions in the application form appeared for the first time without comment or input from the Affected Utilities.

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1 B. Specific Comments

2 1. R14-2-1603. Certificates of Convenience and Necessity.

3 TEP is concerned that the Proposed Rule does not address the settlement process
4 between ESPs and UDCs. The primary settlement issues that we are concerned with involve the
5 process by which the UDC determines whether the actual power used by the ESPs' customers is
6 greater than, equal to or less than the power scheduled and delivered by the ESP and the
7 reconciliation of resulting differences. This includes issues relating to pricing of energy imbalances.
8 Further, there is no provision requiring contracts between the Scheduling Coordinators and the
9 control areas.¹

10 2. R14-2-1604. Competitive Phases.

11 A.1. TEP believes that utilizing a single "non-coincident" peak has unintended
12 consequences. Only customers with 1 MW minimum demand should be eligible for direct access.
13 Given TEP's customer base, the non-coincident peak criterion could expand the direct access
14 eligibility from the 1 MW customer base to well beyond the 20 percent of TEP's 1995 system retail
15 peak demand. It would also have the affect of making the 40 kW aggregation meaningless, as well
16 as impose additional burdens to administer. As the 20 percent cap could be easily reached, there will
17 be customers that have loads in excess of 1 MW that will not be able to access the competitive
18 market during the transition period.

19 A.2. In the third sentence, TEP suggests replacing "month" with "six months."
20 Doing so will better characterize a customer whose load or usage is more consistently at least 40 kW
21 or 16,500 kWh.

22 3. R14-2-1606. Services Required to be Made Available.

23 B. The sentence "Any resulting contract in excess of 12 months shall contain
24 provisions allowing the Utility Distribution Company to ratchet down its power purchases" should
25 be eliminated. TEP understands the Commission's intent with respect to this provision; however,
26 ratchet mechanisms are not typically available in the marketplace and are, therefore, likely to be
27 expensive. The Commission will oversee the signing of any long-term power purchases by the UDC
28

29 ¹TEP is also concerned that it may make more sense to bill the Scheduling Coordinator rather than the ESPs since the
30 Scheduling Coordinator is the entity with whom the transactions are scheduled.

1 and will have significant oversight over such transactions. The provision should also include a
2 statement that all purchase power costs shall be recovered through a purchased power adjustment
3 mechanism approved by the Commission.

4 G.1. A sentence should be added to the end that states "Customers who request
5 such data from a Load-Serving Entity may be charged a reasonable fee for such information."

6 4. R14-2-1607. Recovery of Stranded Cost of Affected Utilities.

7 A. Delete "by means such as expanding wholesale or retail markets, or offering a
8 wider scope of services for profit, among others." As is, this sentence suggests that the Affected
9 Utility use profits from "expanding [its] wholesale or retail markets" or a "wider scope of services"
10 to mitigate stranded costs. It is unclear whether the markets and services mentioned are regulated or
11 unregulated (*i.e.*, competitive). TEP anticipates that most, if not all, new products and services in the
12 electric industry will develop in the unregulated, competitive marketplace. The very nature of
13 "unregulated" means that the Commission will not require that profits from such activities be used to
14 offset costs in the regulated arena. Further, as TEP has proposed to divest itself of generation, the
15 potential of expanding market opportunities becomes significantly limited.

16 F. TEP disagrees with the self-generation exclusion set forth in Paragraph F. If the
17 Proposed Rule is not modified to ensure that customers who choose to self-generate are responsible
18 for stranded costs just as any other existing customer, a potentially large and improper economic
19 incentive for self-generation will be created. This is due to the ability of such customers to avoid
20 stranded cost charges. The result of the Proposed Rule as written will be to significantly increase
21 uneconomic self-generation while increasing stranded cost burdens on customers who purchase their
22 power in the competitive marketplace.

23 5. R14-2-1608. System Benefits Charge.

24 TEP believes that either this section, or the definition of System Benefits Charge,
25 should incorporate competitive access implementation and evaluation program costs in the System
26 Benefits Charge. The Proposed Rules do not mention who will be responsible for paying for
27 competitive access implementation costs. TEP believes that all Affected Utility customers should
28 pay for the costs of implementing and evaluating the new marketplace, because (a) restructuring was
29 ordered by the Commission, and (b) all customers and "market-players" potentially stand to benefit
30 from it.

1 6. R14-2-1609. Solar Portfolio Standard.

2 TEP requests that for purposes of this Proposed Rule, it should be made clear that an
3 ESP may take credit and be in compliance with this standard if it utilizes the product of an affiliate
4 that is engaged in the solar industry. For example, Staff specifically recognized this relationship in
5 subsection K by inserting "affiliate" with respect to the manufacturing credit. It should also be
6 applicable to other sections of the Proposed Rule where a credit may be taken such as the Early
7 Installation Credit in subsection D or the renewable goal in subsection H.

8 A. and B. TEP believes that in order to allow for proper advances in technology
9 and to ensure that money is invested in proven technologies, the percentage should be decreased
10 from 2/10ths of one percent in 1999 to 1/10th of 1 percent and then increase this percentage by
11 1/10th of one percent each year until the one percent level is achieved.

12 C. This provision should only apply to competitive retail sales after January 1,
13 2001. It should not apply to standard offer retail electricity because the UDC is merely procuring
14 generation through a competitive bid process as required by the Proposed Rules and passing costs
15 through to standard offer customers. Requiring UDCs to comply with this provision creates a
16 significant cost burden. TEP's estimated cost in 2001, for example, would be approximately \$6.75
17 million if one half of TEP's current customers choose direct access, and as much as \$13.5 million if
18 a more significant number of customers choose direct access. This approximates to more than two
19 times TEP's current expenditures for both DSM and renewables. Further, the cost would increase
20 thereafter pursuant to the Proposed Rule unless the cost of solar resources is significantly reduced.

21 H. This provision references the Commission's Integrated Resource Planning
22 ("IRP") Rules which apply to only four of the Affected Utilities. TEP believes that the IRP
23 requirements should be repealed or revised given the requirement of the Proposed Rules for an
24 Affected Utility to divest itself of generation to an affiliate or a non-affiliate. Renewables, for
25 example, should be the responsibility of the ESPs and not the UDCs who are no longer in the
26 generation business. To the extent the UDC provides standard offer generation, it will be obtained
27 through competitive bid from other suppliers.

28 7. R14-2-1610. Transmission and Distribution Access.

29 A. Add at the end of the paragraph "in accordance with FERC Orders 888
30 and 889."

1 G. TEP believes that the use of Scheduling Coordinators must be a mandatory
2 requirement for all ESPs (including Aggregators and Self-Aggregators who are not required to use
3 an ESP) under this Proposed Rule. In order for open access to occur, there needs to be a Scheduling
4 Coordinator to fill the role as an intermediary between the competitive market and the system control
5 areas. Without the Scheduling Coordinator, the control areas will be unable to properly schedule
6 power which could jeopardize system reliability. TEP also believes that the Rules should specify
7 minimum requirements for the Scheduling Coordinators such as a 24 hour a day, seven day a week
8 operation and a license. This concept has been supported by the Commission working group
9 studying this issue.

10 H. This section should be modified to allow the Affected Utility to determine the
11 units which are must-run with consideration of the efforts of the Electric System Reliability and
12 Safety Working Group findings as the Working Group may not complete all efforts in time for the
13 competition start date. Further, this section should clearly state that the charges for must-run
14 generation will be paid by all distribution customers as a mandatory ancillary service. We believe
15 that this is the most effective way to ensure that these services are available at reasonable prices.

16 8. R14-2-1613. Service Quality, Consumer Protection, Safety and Billing
17 Requirements.

18 J.1. After "meter reading data" add "to."

19 9. R14-2-1616. Separation of Monopoly and Competitive Services.

20 C. The following should be added at the end of the paragraph: "Generation
21 Cooperatives will be subject to the same limitations that its member Distribution Cooperatives are
22 subject to." This is necessary to prevent AEPCO (or its affiliate) and other generation cooperatives
23 from competing in the retail electric market while utilizing the services of its Distribution
24 Cooperatives.

25 10. R14-2-1617. Electric Affiliate Transaction Rules.

26 TEP believes that this section should not be adopted at this time. There needs to be further
27 input by the Affected Utilities with respect to the implications of these Proposed Rules from both a
28 financial and operational perspective, as well as an assessment as to whether the Proposed Rules give
29 a competitive advantage to non-Affected Utilities. Notwithstanding TEP's position and without
30 waiver thereof, TEP has the following comments:

1 A and B. TEP strongly suggests that a provision be added that requires the
2 Affected Utilities' generation affiliates to offer power to all parties on the same terms such output is
3 offered to its affiliate UDC pursuant to a bulletin board requirement similar to that required by the
4 FERC for affiliated marketers. The Company believes that this requirement is necessary to ensure
5 that utilities that transfer generation to an affiliate do not utilize their generation subsidiaries to
6 obtain advantages for their competitive retail efforts.

7 A.1. TEP believes that this section can be eliminated because the provisions of A.2
8 contain all of the necessary safeguards. It is also unclear as to its purpose in light of A.2.

9 A.6. TEP believes that there is no purpose to be served by this provision except to
10 disadvantage smaller corporate entities such as TEP. It makes a presumption that separation is
11 appropriate in all instances when the Commission has always had the ability to review affiliate
12 relationships under the Affiliate Rules. What this does is to deny day-to-day expertise necessary to
13 efficiently carry out responsibilities to different entities. So long as proper allocation and conflict
14 policies are in effect, this provision is unnecessary. At the very least, the Proposed Rule should
15 provide for a waiver by the Commission upon a demonstration by the Affected Utility that
16 appropriate procedures have been implemented that ensure that the utilization of common board
17 members and corporate officers does not allow for the sharing of confidential information with
18 affiliates or otherwise circumvent the purpose of this Proposed Rule.

19 D. This is an example of something that applies to Affected Utilities that should
20 also apply to new market entrants. Otherwise, new market entrants are being provided a competitive
21 advantage.

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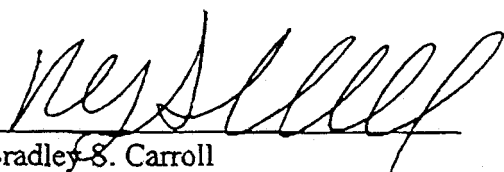
11. R14-2-1618. Disclosure Information.

TEP currently does not possess the means necessary to automatically produce the Information Disclosure Label outlined in the Proposed Rule. Significant time, money and resources will need to be expended in order to accomplish this requirement. TEP suggests that this requirement be deleted from the Proposed Rules at this time so that further comment and study can be undertaken.

RESPECTFULLY SUBMITTED this 21st day of September, 1998.

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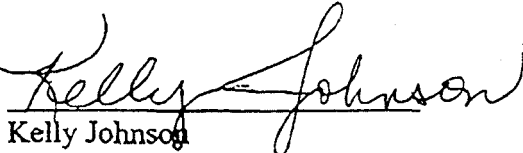
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